D. S. AND ELIZABETH LANEY

May 20, 1958.—Committed to the Committee of the Whole House and ordered to be printed

Mr. Ashmore, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 2647]

The Committee on the Judiciary, to whom was referred the bill (H. R. 2647) for the relief of D. S. and Elizabeth Laney, having considered the same, report favorably thereon with amendments and recommend that the bill do pass.

The amendments are as follows:

Page 1, lines 6, 7, 8, and 9, strike out "\$4,592.28, plus interest on \$2,572.80 from January 15, 1951, and on \$2,019.48 from July 21, 1953, at the rate of 6 per centum per annum, to the date of payment under the authority of this Act." and insert "\$2,572.80."

Page 2, lines 3 and 4, strike out "in excess of 10 per centum thereof".

PURPOSE

The purpose of the proposed legislation, as modified by the recommendations of the committee, is to pay D. S. Laney and Elizabeth Laney, of Osceola, Ark., \$2,572.80 in full settlement of their claims against the United States for a refund of an overpayment of their Federal income tax for the year 1951.

STATEMENT

On March 18, 1952, D. S. and Elizabeth Laney paid their income tax for the year 1951 in accordance with the tax determined in connection with a joint income-tax return which they filed on that date. The Internal Revenue Service subsequently, on June 30, 1953, ruled that they had not paid enough tax for that year and the service assessed a deficiency of \$2,019.48 plus interest. The taxpayers paid the amount of the alleged deficiency plus interest on July 14, 1953.

Mr. Laney, as a result of this development, retained Walter H. Patton, a public accountant of Earle, Ark., to reaudit all of the business transactions in which Mr. D. S. Laney was engaged in the year 1951. As a result of this examination it was determined that Mr. and Mrs. Laney had overreported their income to the Government. When this fact was established, the taxpayers filed a claim for refund of the overpayment. This claim for refund was filed on July 11, 1955, and requested a refund of \$4,592.28. However the 3-year statute had run as to their original tax payment so that the Government only refunded the amount which had originally been paid as a deficiency together with interest. That amount came to \$2.579.17.

H. R. 2647 is concerned with the balance of the overpayment. The Department of the Treasury has indicated to the committee in its report on the bill that it is opposed to the granting of such relief because the statute of limitations has run as to that amount. This is a situation in which the taxpayers had no idea of their overpayment and hence that a claim for refund should be filed until the reaudit had been made. That audit clearly showed that the Government was wrong in assessing a deficiency. It also disclosed as to the same year that the original tax had also been overpaid. This committee feels that it is unfair to treat the tax liability for a single year in such a piecemeal manner. In this situation the committee feels that it is proper to grant legislative relief. Accordingly the committee recommends that the bill be amended to provide for a payment of \$2,572.80, and that the amended bill be considered favorably.

TREASURY DEPARTMENT, Washington, February 20, 1958.

Hon. EMANUEL CELLER.

Chairman, Committee on the Judiciary,

House of Representatives, Washington, D. C.

My Dear Mr. Chairman: This is in response to your request of January 25, 1957, for the views of the Treasury Department on H. R. 2647 (85th Cong., 1st sess.) which is identical to H. R. 11851 (84th Cong.) and is entitled "A bill for the relief of D. S. and Elizabeth

Laney."

H. R. 2647, if enacted, would authorize and direct the Secretary of the Treasury to pay to D. S. and Elizabeth Laney, Osceola, Ark., the sum of \$4,592.28, plus interest on \$2,572.80 from January 15, 1951, and on \$2,019.48 from July 21, 1953, at the rate of 6 percent per annum, to the date of such payment. Such amount would be in full settlement of all claims of D. S. and Elizabeth Laney against the United States for refund of an overpayment with respect to their Federal income tax liability for the calendar year 1951. The bill further provides that no part of the amount appropriated in excess of 10 percent thereof shall be paid to any agent or attorney on account of services rendered in connection with the claim.

The records of the Internal Revenue Service disclose that, on March 18, 1952, the taxpayers filed a joint income-tax return for 1951 showing

a balance of tax due which was paid at that time.

A field examination of the taxpayers' books and records for the calendar year 1951 resulted in the assessment, on June 30, 1953, of a

deficiency of \$2,019.48 plus interest. The deficiency was based primarily on adjustments which included in income \$4,000 of unexplained credits to the taxpayers' personal accounts on their books. The taxpayers paid the deficiency plus interest on July 14, 1953.

On July 11, 1955, the taxpayers filed a claim for refund for over-

payment of their 1951 tax liability in the amount of \$4,592.28.

At the time the taxpayers filed their claim for refund on July 11, 1955, the 3-year period of limitations for filing such claims imposed by section 322 of the Internal Revenue Code of 1939 had expired with respect to the tax which the taxpayers had paid at the time of filing their original return on March 18, 1952. However, the 2-year period of limitations, which is provided by section 322 with respect to payments made within 2 years of filing a claim for refund, still had 3 days to run with respect to the deficiency in tax of \$2,019.48 which the

taxpayers had paid on July 14, 1953.

A revenue agent's examination of the taxpayers' claim for refund recommended an overassessment of \$2,019.48, which was the only amount not barred by the statute of limitations, based principally on a reduction of farm income. The examining agent made no verification of the balance of the taxpayers' claim because any greater refund was barred by the statute of limitations. The amount of \$2,019.48, plus interest, was scheduled for payment to the taxpayers on September 11, 1956. In a registered letter dated September 24, 1956, the district director, Little Rock, Ark., advised the taxpayers of the partial allowance and partial disallowance of their claim. A refund check dated September 17, 1956, in the amount of \$2,579.17 has been issued to D. S. and Elizabeth Laney.

H. R. 2647 would, in part, direct the Secretary of the Treasury to pay an amount of \$2,019.48 with interest from July 21, 1953. amount, plus interest, has already been paid to the taxpayers. bill further provides for the payment of \$2,572.80 plus interest from January 15, 1951. The Service has no information indicating that this amount in fact constitutes an overpayment of taxes by the taxpavers and a refund of this amount is barred by the statute of limi-

tations.

It is to be noted that Congress has determined it to be a sound policy to include in the revenue system a statute of limitations, by the operation of which, after a period of time, it becomes impossible for the Government to collect additional taxes or for the taxpayer to obtain refunds of tax overpayments. Except in the case of special circumstances, which do not appear here, it would appear that granting special relief in the case of taxes erroneously collected, the refund of which is not claimed in the time and manner prescribed by law, constitutes a discrimination against other taxpayers similarly situated.

In view of the foregoing, the Treasury Department is not in favor

of the enactment of H. R. 2647.

The Director, Bureau of the Budget, has advised the Treasury Department that there is no objection to the presentation of this report.

Sincerely yours,

DAN THROOP SMITH, Deputy to the Secretary.

